

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8144 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

V.V.RABARI

Appearance:

1. Special Civil Application No. 8144 of 2004
MR HARDIK C RAWAL for Petitioner No. 1
MR VAISHNAV for Respondent No. 1
-

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 18/08/2004

ORAL JUDGEMENT

1. Rule. Mr.Vaishnav, learned advocate waives service of notice of rule, for the respondent.
2. Heard the learned advocates appearing for both

the parties.

3. In the present petition, the petitioner has challenged the legality of the award dated 24.12.2003 passed by the Industrial Tribunal, Ahmedabad by which the reference of the respondent - workman was allowed partially. The respondent - workman for some alleged misconduct, was tried departmentally and the competent authority imposed a penalty of withholding of salary of one month without future effect. This order came to be challenged before the appellate authority and the penalty was increased to that of withholding of increments three years with future effect. On further appeal by the respondent workman, the same was reduced withholding of increment of one year, with future effect. It was, this penalty which, ultimately, came to be questioned before the Tribunal in Reference (IT) No.274 of 2001, filed by the respondent - workman.

4. The Industrial Tribunal, in the impugned award, was pleased to come to the conclusion that the petitioner has not led any evidence to establish the charge against the respondent. Neither any witnesses were examined nor the reporters on the basis of whose reports, the inquiry was initiated, was examined during the course of the inquiry. The Tribunal, however, on the basis of the statement of the respondent - workman, has come to the conclusion that the respondent - workman was responsible for negligence and that, therefore, while setting aside the order of penalty of withholding one year increment with future effect, substituted the same withholding of salary of one month without future effect.

5. From the impugned award, I find that the conclusions reached by the Industrial Tribunal are based on findings of fact and, therefore, no interference is required in exercise of power under Section 226 of the Constitution of India, especially, since no perversity has been pointed out by the petitioner. Learned advocate for the respondent - workman, however, agrees not to claim the arrears of salary, by virtue of the substitution of the penalty, pursuant to the award of the Industrial Tribunal. While, holding that the award of the Industrial Tribunal is just and proper and required no interference, in view of the concession of the learned advocate for the respondent - workman, it is provided that the respondent - workman shall not be entitled arrears of salary, on the basis of substitution of penalty, as directed by the Industrial Tribunal in its impugned award.

6. With this direction, this petition stands disposed of. Rule is made absolute to the aforesaid extent. No order as to costs.

[Akil Kureshi, J.]

(vijay)